BakerHostetler

July 19, 2016

Edward J. Jacobs
Direct dial: 212.589.4674
ejacobs@bakerlaw.com

VIA ECF AND ELECTRONIC MAIL

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408
Bernstein.chambers@nysb.uscourts.gov

Re: Adv. Pro. No. 10-05048 (SMB); *Irving H. Picard v. Estate of Armand L. Greenhall, et al.*

Dear Judge Bernstein:

We are counsel to Irving H. Picard, as trustee ("Trustee") for the substantively consolidated SIPA liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* and the estate of Bernard L. Madoff. We write to request a conference with the Court, under Local Bankruptcy Rule 7007-1(b) and your Honor's Chambers Rules, concerning a discovery dispute in the above adversary proceeding.

The Trustee intends to move for an order (A) compelling defendants the Estate of Armand L. Greenhall and Deidre Sweeney, as Personal Representative of the Estate of Armand L. Greenhall ("Defendants") to respond to discovery and produce documents responsive to the Trustee's discovery requests, (B) confirming that the Trustee's Requests for Admission to Defendants are deemed admitted and that any objections to the Trustee's Interrogatories and Requests for Production to Defendants are waived, under Federal Rules of Civil Procedure 33(b)(4), 34 and 36(a)(3), and (C) requiring Defendants' counsel to file a notice of substitution of counsel, in light of a change in law firm from information reflected on the Court's docket.

On April 5, 2016, the Trustee served Requests for Admission, Interrogatories and Requests for Production on Defendants (copy of each attached as Exhibit A).

Honorable Stuart M. Bernstein
July 19, 2016
Page 2

Responses were due on May 9. None were received. On May 13, we sent a letter to Defendants' counsel, Joseph Keenan, regarding the overdue responses, and requesting responses and production of documents by May 27, 2016 (copy attached as Exhibit B). We followed up with defense counsel by email on June 9, 17, 21 and July 8 (*see* Exhibit C). On June 17, Mr. Keenan asked for two weeks to provide the responses (*id.*), and on July 8, he promised the responses by July 15 (*id.*), which were again not served. Defendants' discovery responses are now more than two months overdue.

Additionally, Mr. Keenan's law firm and contact information has changed from what is reflected on the Court's docket. We have repeatedly asked Mr. Keenan to file a notice of substitution of counsel with the Court (see copies of emails and letters attached as Exhibit D), but he has failed to do so. On February 18, Mr. Keenan sent us a Notice of Substitution of Counsel (copy attached as Exhibit E), but despite our requests both before and after February 18, he has not filed the notice with the Court.

The Trustee respectfully requests a conference with the Court to address Defendants' overdue discovery responses and counsel's failure to properly substitute his new law firm as counsel of record. Such a conference will assist the Trustee in completing the discovery to which he is entitled, and will hopefully obviate the need for discovery-related motion practice.

Respectfully submitted,

/s/ Edward J. Jacobs
Edward J. Jacobs

Enclosures

cc: Joseph F. Keenan
     114-04 Beach Channel Drive Suite 9
     Rockaway Park, NY 11694
     jfkeenan@joekeenanlaw.com

     McCanliss & Early, LLP
     Wall Street Plaza
     88 Pine Street, 21st Floor
     New York, NY 10005

     Barry R. Lax
     Brian J. Neville
     Robert R. Miller
     Lax & Neville LLP
     1450 Broadway, 35th Floor
     New York, NY 10018

Honorable Stuart M. Bernstein
July 19, 2016
Page 3

blax@laxneville.com
bneville@laxneville.com
rmiller@laxneville.com